

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

PROPOSED TEXT

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6
AMEND ARTICLE 3, SECTIONS 1160.3 AND 1160.4

General Hazardous Materials Regulations (CHP-R-10-01)

Existing text:Times New Roman 12 point font.

AdditionsTimes New Roman 12 point font with single underline.

Deletions:~~Times New Roman 12 point font with bold strikethrough.~~

Article 3. General Hazardous Materials Regulations

TITLE 13. - California Code of Regulations Chapter 6. Hazardous Materials Article 3

(1) Section 1160.3 is amended to read:

§ 1160.3. Definitions

(a) The meanings of terms contained in this article and not defined in this article are the same as those contained in 49 CFR 171.8.

(b) “Carrier” means any person as defined in Section 1235.1, who transports hazardous materials subject to this article.

(c) “Department” means Department of the California Highway Patrol.

(d) “Hazardous material” means a substance or material, which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials as defined in 49 CFR 171.8, materials designated as hazardous under the provisions of 49 CFR Sections 172.101 and 172.102, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR Part 173.

(e) “License” as used in this article means a license issued by the Department to transport hazardous materials in California.

(f) “New License” means any license issued to a carrier pursuant to an application and required fees received more than 30 days after the date of expiration of any current or previous license.

(g) “Original License” means a license printed and issued by the Department, and forwarded to the carrier.

(h) “Private carrier” means any carrier who transports cargo for use in his/her occupation or for other purpose without reward or compensation.

(i) “Renewal License” means a license issued pursuant to an application and required fees received not more than thirty days after the expiration of an existing license.

(j) “Shipper” means any person who prepares or offers hazardous materials for transportation. A shipper who also transports its own material is both a shipper and a carrier.

(k) “Initial License” means any new license and any license issued to a carrier not previously issued a license.

(l) “Temporary License” means a probationary license valid for not more than 60 days from the date of application. A temporary license is immediately null and void when an applicant for a new or initial license is assigned an unsatisfactory rating ~~pursuant to Section 1160.4(g)~~ as the result of any inspection conducted pursuant to Section 34501, 34501.12, or 34520 of the Vehicle Code.

Note: Authority cited: Sections 2402.7, 2532, 32000.5, and 34501, Vehicle Code. Reference: Sections 32000.5 and 34501, Vehicle Code.

(2) Section 1160.4 is amended to read:

§ 1160.4. General Provisions.

(a) Applicability.

(1) Shippers shall not offer and carriers shall not transport any shipment of a hazardous material not prepared for transportation in accordance with this Article.

(2) A carrier and a shipper/carrier with one or more terminal locations in California shall be in compliance with Section 34501.12 of the Vehicle Code.

(3) Shippers shall verify the carrier holds a valid Hazardous Materials Transportation License prior to offering hazardous materials for transportation in quantities requiring the license.

(b) References to Statutes and Regulations. Any reference to provisions of these regulations or to statutes shall apply to all amendments and additions made to such regulatory or statutory provisions.

(c) Alternate Method of Compliance. Upon a finding that an alternate method of compliance provides protection to the public equal to or exceeding that afforded by compliance with provisions of this article, the Department may authorize use of such alternate method subject to the following:

(1) Any alternate method of compliance shall be permitted only after application has been made to and written authorization obtained from the Department.

(2) Written authorization shall be carried in each transporting vehicle or combination.

(3) No authorization for an alternate method of compliance shall be accorded any highway carrier subject to federal jurisdiction, nor shall such authorization apply to the preparation of hazardous materials for interstate transportation.

(4) No authorization for an alternate method of compliance shall be granted when a special permit or exemption has been issued by the U.S. Department of Transportation, Associate Administrator for Hazardous Materials Safety authorizing the requested alternate method.

(d) Special Permits and Exemptions. Compliance with requirements of special permits and exemptions issued by the U.S. Department of Transportation, Associate Administrator for Hazardous Materials Safety in accordance with 49 CFR Part 107, shall be deemed in compliance with equivalent provisions of this article.

(e) Inspection by Department. Carriers and shippers shall afford duly authorized employees of the Department reasonable opportunity to enter terminals and other locations to determine compliance with the provisions of this article.

(f) Unsafe Transportation Prohibited. Authorized employees of the Department shall declare and mark any vehicle out-of-service when the condition, securement, preparation of lading, filling, closures, or protective devices on cylinders and tanks would be hazardous to life and property during transportation.

(1) No carrier shall require or permit any person to operate nor shall any person operate any vehicle marked out-of-service until all necessary corrections have been completed.

(2) No person shall remove any out-of-service notice from any vehicle prior to the completion of all corrections required by the notice.

(g) Hazardous Materials Transportation License.

(1) Fees. The fee for a new or initial license is one hundred dollars (\$100), ~~and the fee for a renewal license is seventy-five dollars (\$75), and the fee for a duplicate license is five dollars (\$5.00).~~

(2) Original License. The original valid license shall be kept at the licensee's place of business as indicated on the license and presented to any duly authorized employee of the Department upon request.

(A) The original license shall be immediately surrendered to the Department upon cancellation, suspension, or revocation. The carrier shall immediately forward the original license to the CHP, Commercial Vehicle Section, via US Mail or other appropriate means and shall destroy all copies.

(B) A license may be revoked without prejudice in the event the license is issued in error.

(C) A license shall not be issued to any carrier ~~subject to Section 34501.12 of the Vehicle Code~~ unless all appropriate applications and fees are on file with the Department.

(D) The Department shall not issue a new or initial license to any carrier subject to Section 34501.12 of the Vehicle Code ~~who has been issued an unsatisfactory rating within the previous three years for an inspection conducted pursuant to Section 34501, 34501.12, or 34520 and~~ unless each terminal from which hazardous materials carrying vehicles are operated is in compliance with the requirements of Section 34501.12 and is currently rated satisfactory.

(E) Except as otherwise provided, the Department shall not issue a new or initial license to any carrier who has received an unsatisfactory rating within the previous three years as the result of any inspection conducted pursuant to Section 34501, 34501.12, or 34520 of the Vehicle Code, unless the carrier has corrected the unsatisfactory rating prior to applying for the license. Correction shall be evidenced by the assignment of a satisfactory or conditional rating, issued by the Department, as the result of a reinspection conducted to ensure remedy of any existing unsatisfactory conditions and for which the previous unsatisfactory rating was assigned. In order

to ensure issuance of a license is not unreasonably hindered, the Department may require the carrier to provide documented proof of correction upon request.

~~(E)~~(F) An original license shall not be issued unless the carrier is in compliance with the Code of Federal Regulations, Title 49, Part 107, Subpart G, and Part 171, Subpart A. The Department may require proof of compliance with applicable requirements prior to the issuance of any license.

(3) Renewal License. Carriers with a valid license may renew the license if the renewal request and required fees are on file with the Department ~~prior to~~ within the 30 day period following of the expiration of the existing license when accompanied by the fee for a new license and;

(A) No proof of transportation of hazardous materials is discovered for any period during which the carrier was not properly licensed.

(4) New License. Carriers who have previously held a valid license may be issued a New License under the following conditions:

(A) The request and required fees are received by the Department more than 30 days after the expiration of the existing license.

(B) No proof of transportation of hazardous materials is discovered in any period during which the carrier was not properly licensed.

(5) It shall be the responsibility of the carrier to obtain an application and ensure a license is issued or renewed, prior to the transportation of hazardous materials.

(6) Copy in each vehicle. A legible copy of the license and any registration or special permit required by the Secretary of the Department of Transportation shall be carried in any vehicle or combination of vehicles transporting hazardous materials and shall be presented to any peace officer or authorized employee upon request.

(7) Temporary License. Carriers subject to and ~~who are~~ in compliance with the provisions of Vehicle Code Sections 34501, 34501.12, and 34520, who have submitted a properly completed application and the required license fee to the Department and who have not been assigned an unsatisfactory compliance rating within the preceding three years, may use either of the following as a temporary license for not more than 60 days when carried in the vehicle:

(A) A copy of the carrier's properly completed application for license to transport hazardous materials and a copy of the check or money order indicating payment of the required fee.

(B) A copy of the carrier's properly completed application for license to transport hazardous materials and a telegraphic money order receipt, or copy thereof, made payable to the California Highway Patrol, indicating payment of the required fee for license to transport hazardous materials.

(8) The Department's license issuance and verification process should not unreasonably hinder a carrier's capacity to transport hazardous materials.

(9) Exceptions. Federal, State, county, city, and city and county agencies, and other political subdivisions of the State including, but not limited to, school, irrigation, and fire protection districts are exempt from the licensing requirements of Vehicle Code Section 32000.5.

Internet Access. The California Highway Patrol form CHP 361M (Rev. 01-08), Application for Hazardous Materials Transportation License, instructions for completing the application and related documents are available on the Internet at <http://www.chp.ca.gov/publications/index.html>.

Note: Authority cited: Sections 2532, 32000.5, 32002, and 34501, Vehicle Code. Reference: Sections 2501, 2502, 32000.5, 32001, and 34501, Vehicle Code
